

DEPARTMENT OF STATE REVENUE

Revenue Ruling #99-03 IT

May 17, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Gross Income Tax – Limited Partnership Electing to be Treated as a Corporation for Federal Income Tax Purposes

Authority: IC 6-2.1-3-25, Rule 45 IAC 1.1-3-12

The taxpayer requests the Department to rule on the application of gross income tax to a limited partnership electing to be treated as a corporation for federal income tax purposes.

STATEMENT OF FACTS

Corporation A is the publicly traded parent of a federal consolidated group. Corporation B is an Indiana corporation and wholly-owned subsidiary of Corporation A. Corporation A and Corporation B anticipate forming a limited partnership, hereinafter "taxpayer". After formation of the taxpayer, Corporation B will transfer substantially all of its business operations to the taxpayer. For federal purposes, the taxpayer will "check the box" to be treated as a corporation.

DISCUSSION

IC 6-2.1-3-25 and Rule 45 IAC 1.1-3-12, which interprets IC 6-2.1-3-25, provide that gross income received by a partnership is exempt from Indiana gross income tax unless the gross income is received by a publicly traded partnership that is treated as a corporation for federal income tax purposes under Section 7704 of the Internal Revenue Code. The Gross Income Tax Code does not contain provisions that address the applicability of gross income tax to the gross income of a partnership that has elected to be treated as a corporation for federal income tax purposes. This being the case, the aforementioned IC 6-2.1-3-25 is the authority for determining the applicability of gross income tax to the gross income of partnerships regardless of the treatment of the partnership at the federal level, i.e., the federal election has no impact on the gross income taxation of partnerships. The taxpayer's gross income, therefore, is not subject to

Indiana gross income tax unless the taxpayer is a publicly traded partnership that is treated as a corporation for federal income tax purposes under Section 7704 of the Internal Revenue Code.

RULING

The Department rules that the taxpayer's gross income is not subject to Indiana gross income tax unless the taxpayer is a publicly traded partnership that is treated as a corporation for federal income tax purposes under Section 7704 of the Internal Revenue Code.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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